

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

JAMES F. CONANT, M.D. AND MISSOURI DOCTORS MUTUAL INSURANCE  
COMPANY,

Appellants-Respondents

v.

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION, JOHN M. HUFF, DIRECTOR OF DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION, AND FREDERICK  
G. HEESE, CHIEF FINANCIAL EXAMINER AND DIRECTOR OF THE DIVISION OF  
INSURANCE COMPANY REGULATION OF THE DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION,

Respondents-Appellants

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DOCKET NUMBER WD76008 Consolidated with WD76050

DATE: March 11, 2014

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Appeal From:

Circuit Court of Cole County, MO  
The Honorable Jon Edward Beetem, Judge

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Appellate Judges:

Division Three  
Anthony Rex Gabbert, P.J., Lisa White Hardwick, Thomas H. Newton, JJ.

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Attorneys:

Ronald R. Holliger, Tamara A. Kopp, Jeremiah Morgan, Jefferson City, Counsel for  
Respondents-Appellants,

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Attorneys:

Audrey Hanson McIntosh, Jefferson City, Counsel for Appellants-Respondents

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**JAMES F. CONANT, M.D. AND MISSOURI  
DOCTORS MUTUAL INSURANCE  
COMPANY,**

**Appellants-Respondents,**

**v.**

**DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND  
PROFESSIONAL REGISTRATION, JOHN M.  
HUFF, DIRECTOR OF DEPARTMENT OF  
INSURANCE, FINANCIAL INSTITUTIONS  
AND PROFESSIONAL REGISTRATION, AND  
FREDERICK G. HEESE, CHIEF FINANCIAL  
EXAMINER AND DIRECTOR OF THE  
DIVISION OF INSURANCE COMPANY  
REGULATION OF THE DEPARTMENT OF  
INSURANCE, FINANCIAL INSTITUTIONS  
AND PROFESSIONAL REGISTRATION,**

**OPINION FILED:  
MARCH 11, 2014**

**Respondents-Appellants.**

**WD76008 Consolidated with WD76050**

**Cole County**

Before Division Three Judges: Anthony Rex Gabbert, P.J., Lisa White Hardwick, Thomas H. Newton, JJ.

James F. Conant, M.D. and Missouri Doctors Mutual Insurance Company (MoDocs collectively) appeal the circuit court's judgment granting the Department of Insurance (Department) summary judgment on Counts II and III of MoDocs' three-count Amended Petition. MoDocs contends that the circuit court erred when: (1) it granted summary judgment to the Department because it misinterpreted and misapplied Section 374.205, RSMo 2000, in determining that the Director's findings, conclusions, order and examination report was not a final administrative decision subject to review and did not create a justiciable controversy; (2) it granted summary judgment to the Department because it misinterpreted and misapplied Section 536.150, RSMo 2000, in finding that, since the Director's report required no corrective action, there was also no review under Section 536.150; (3) it granted summary judgment pursuant to Section 536.021, RSMo Cum. Supp. 2009, because the Department and Director required MoDocs to set reserves and provide documentation in a manner and method not outlined by Missouri law or regulations and such must be promulgated into rules under Section 536.021. The Department cross-appeals. The Department contends that the circuit court erred when: (1) it required the examiner's verified report be physically revised with the Director's modifications and corrections.

**REVERSED AS TO DIRECT APPEAL; AFFIRMED AS TO CROSS-APPEAL**

**Division Three Holds:**

(1) The circuit court erred in granting summary judgment to the Department because Section 374.205.3(4) authorizes review of the Director's order.

(2) As we reversed on other grounds, we need not determine whether the circuit court misinterpreted and/or misapplied Section 536.150.

(3) The circuit court erred in granting summary judgment to the Department regarding MoDocs' Section 536.021 claim for lack of jurisdiction as Section 374.205.3(4) authorizes review of the claim.

(4) The circuit court did not err in finding that the report authorized for publication pursuant to Section 374.205.3(5) shall include only those portions of the Department's examination report that is adopted by the Director.

Opinion by Anthony Rex Gabbert, Judge

Date: March 11, 2014

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**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**